

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7089

BILL NUMBER: HB 1468

NOTE PREPARED: Feb 19, 2009

BILL AMENDED: Feb 17, 2009

SUBJECT: Animal Cruelty and Commercial Dog Breeders.

FIRST AUTHOR: Rep. Lawson L

FIRST SPONSOR: Sen. Lubbers

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Conditions of Bail, Probation, or Parole:* The bill authorizes the court, as a condition of bail or parole, or the parole board, as a condition of parole, to prohibit a person from owning, harboring, or training an animal, and, if the person is prohibited from having direct or indirect contact with an individual, from having direct or indirect contact with any animal belonging to the individual.

Commercial Dog Breeders Requirements: The bill establishes commercial dog breeder regulations including: (1) requiring commercial dog breeders to register with the state board of animal health; and (2) establishing standards for premises where dogs are kept and conditions in which dogs are kept. It requires commercial dog breeders to refund the purchase price of a dog sold by the breeder to a purchaser under certain circumstances. It also requires pet dealers to maintain certain records.

Reporting: It provides that a veterinarian or registered veterinary technician may report a suspected incident of animal cruelty under the law concerning offenses relating to animals to a law enforcement officer.

Medical Care: The bill provides that a person neglects an animal if the person fails to provide reasonable medical care for an animal's injury or illness.

Poison: It broadens the definition of torturing an animal by administering poison by applying the definition to all vertebrate animals. (Current law applies only to dogs or cats.)

Animal Cruelty: It makes abandoning or neglecting an animal a Class A misdemeanor, and enhances the penalty to a Class D felony if the person has a prior conviction.

Killing a Domestic Animal: It also makes it killing a domestic animal, a Class A misdemeanor, for a person to knowingly or intentionally kill a domestic animal without the consent of the owner of the domestic animal. It makes the offense a Class D felony if the person knew or reasonably should have known the domestic animal was located on real property that was owned by: (1) the owner of the domestic animal; or (2) a person who keeps domestic animals on the real property for the purpose of breeding, boarding, or training domestic animals.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Summary:* The bill could increase the costs of incarceration and the fines received by adding to the conditions of bail, probation, or parole; increasing the penalties for animal cruelty in certain circumstances; by adding to the definition of animal neglect; and by establishing new misdemeanor and felony offenses. The bill could also minimally increase costs for the State Board of Animal Health to establish and maintain a commercial dog breeder electronic registry and to send notices to registrants 60 days prior to the expiration of their registration period.

Conditions of Bail, Probation, or Parole: Violation of a condition of bail, probation, or parole could result in an offender serving a period of incarceration or it could extend the period the offender is under community supervision. If an offender is supervised in the community on bail, probation, or parole for a longer period of time, courts may need more staff to supervise more offenders. Any effects of this bill would be at the court's or parole board's discretion.

Neglect, Animal Cruelty, and Killing a Domestic Animal: The bill would increase the penalty for cruelty to an animal from a Class B misdemeanor to Class A misdemeanor, or for a prior conviction, to a Class D felony. The bill also adds to the definition of neglect which is an element of the crime of animal cruelty, and makes killing a domestic animal a Class D felony in certain circumstances. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Poison: There are no data to indicate how many offenders may be convicted of cruelty to an animal, a Class A misdemeanor, if the definition of torture by poisoning is changed to include all vertebrate animals.

Commercial Dog Breeder Registration: The bill could increase costs for the State Board of Animal Health to establish an electronic commercial dog breeder registry and for notifying registrants that their registration requires renewal. It is expected that the additional requirements are within their existing level of resources.

Background-

Bail, Probation, or Parole: When a court finds that a person who is on probation has violated a condition set by the court, the court can only impose one of the following sanctions:

1. Continue the person on probation with or without modifying or enlarging the conditions;
2. Extend the person's probationary period for not more than one year beyond the original probationary period; or
3. Order execution of all or part of the sentence that was suspended at the time of the initial

hearing.

State Incarceration Expense: The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223.

Commercial Dog Breeder Registration: The State Board of Animal Health reverted \$636,200 to the state General Fund in FY 2008. On January 26, 2009, the State Board of Animal Health had three vacant positions with a combined salary of \$64,400.

Explanation of State Revenues: *Medical Care:* There are no data available to indicate if more offenders would be convicted of cruelty to an animal, a Class B misdemeanor, if failing to provide reasonable medical care for an animal's injury or illness and leaving an animal exposed to excessive heat or cold is added to the definition of the crime.

Animal Cruelty: Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor or a Class D felony rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000 and for a Class D felony is \$10,000. Court fees of \$120 would remain unchanged.

Poison: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Commercial Dog Breeder Registration and Killing a Domestic Animal: The bill establishes a Class B misdemeanor for knowingly or intentionally failing to register as a commercial dog breeder and a Class A misdemeanor, if the breeder maintains more than 30 dogs that are at least one year old and that have not been spayed or neutered. And it establishes a Class A misdemeanor for killing a domestic animal without the consent of the owner, and increases the penalty to a Class D felony in certain circumstances.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Animal Cruelty, Poison, and Commercial Dog Breeder Registration, and Killing a Domestic Animal:* Costs to local governments could increase for longer periods of incarceration. The maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. However, if an offender is sentenced to state prison for a Class D felony rather than to a county jail for a Class A or a Class B misdemeanor, the costs to

the county may be reduced. The average daily cost of housing a prisoner is an approximately \$44.

Explanation of Local Revenues: *Animal Cruelty, Poison, and Commercial Dog Breeder Registration, and Killing a Domestic Animal:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

Fiscal Analyst: Karen Firestone, 317-234-2106.